IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

CIVIL SECOND APPEAL No. 300 of 2006

PUBLIC TRUST SHRI GEETA SATSANG BHAWAN
V/S
OM PRAKASH

Mr. DC SHARMA, for the appellant / petitioner

Date of Order : 18.12.2006

HON'BLE SHRI N P GUPTA,J.

ORDER

Heard learned counsel for the appellant.

It was submitted that the question about the appellant trust being a public trust requiring to be registered and non-maintainability of the suit in absence of registration had been decided by the learned lower appellate court without hearing the appellant rather without even giving any notice in that regard to the appellant.

Learned counsel for the appellant was directed to read the memo of appeal filed before the learned appellate court so as to see as to whether the question was raised therein or not but learned counsel for the appellant expressed his inability to read the same. Then attention of the learned counsel was invited to last para at Pg.5 of

the appellate court's judgment wherein it has been noticed that on the defendant's application filed under Order 41 Rule 25 read with 14 Rule 5 CPC, order has been passed on 22.10.2005 reframing the issues and declining to remand the matter. Learned counsel was then requested to read the order dated 22.10.2005 which again could show as to whether the appellant had noticed or not but then learned counsel again expressed his inability to read that order either.

In that view of the matter the contention cannot be accepted on the face value on the absence of any material on record.

Then coming to the merits, even according to the plaint's averments the appellant is a public trust and the Rajasthan Public Trust Act contemplated requirement of registration of trust depending on the income and / or valuation of assets of the property but then since 1982 that requirement has been given go-bye and irrespective of any income or value the public trust is required to be registered.

Learned counsel for the appellant was asked as to whether the trust is even now registered, to that the learned counsel for the appellant submitted that in this case learned lower appellate court has recorded the finding that the plaintiff trust is registered. On the other

hand, I find that pg. 7 of the judgment that the suit has been held not maintainable for want of registration. Thus, I do not find any error in the finding of the learned lower appellate court holding against the plaintiff about maintainability of the suit. The appeal is, therefore, dismissed summarily.

(N P GUPTA),J.

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